

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

MICHAEL J. KRIZ,

Plaintiff,

vs.

DR. SANAT K. ROY, Psychiatrist;
DR. SHANNON BLACK, Psychologist;
TERRY CURTIS, Box Butte County
Attorney; and JEAN RHODES,
Chairman, Box Butte County Mental
Health Board;

Defendants.

8:20CV111

**MEMORANDUM
AND ORDER**

Plaintiff, Michael J. Kriz (“Kriz”), filed this action on March 24, 2020, and has since been granted leave to proceed in forma pauperis. The court now conducts an initial review of Kriz’s Complaint (Filing 1) to determine whether summary dismissal is appropriate under 28 U.S.C. § 1915(e)(2).

I. SUMMARY OF COMPLAINT

This case is duplicative of Case No. 8:20CV110, which was filed on the same date. Both cases involve identical parties and subject matter, and Plaintiff requests the same relief, *i.e.*, discharge from the Lincoln Regional Center to an outpatient treatment setting. The Complaint filed in this case does not contain any additional allegations of material fact.¹

¹ “District courts are accorded ‘a great deal of latitude and discretion’ in determining whether one action is duplicative of another, but generally, a suit is duplicative if the ‘claims, parties, and available relief do not significantly differ between the two actions.’” *Serlin v. Arthur Andersen & Co.*, 3 F.3d 221, 223 (7th Cir. 1993) (citation omitted).

II. ANALYSIS

In a separate Memorandum and Order filed this date, the court has determined that the Complaint filed in Case No. 8:20CV110 fails to state a claim upon which relief may be granted, but on its own motion has given Plaintiff 30 days to file an Amended Complaint. Thus, Case No. 8:20CV110 remains pending, and Plaintiff has been given the opportunity to replead. Plaintiff will not be prejudiced in any manner by the dismissal of the present action.

Plaintiff was admonished by the court on a prior occasion that he “should not require two civil cases in which to present the same claims against the same defendants.” *Kriz v. 12th Judicial Dist Bd of Mental Health of Box Butte Cty.*, No. 4:05 CV 3253, 2005 WL 2563040, at *1 (D. Neb. Oct. 11, 2005). In fact, “plaintiffs have no right to maintain two actions on the same subject in the same court, against the same defendant[s] at the same time.” *Id.* (quoting *Curtis v. Citibank, N.A.*, 226 F.3d 133, 138-39 (2d Cir.2000)); see *Missouri ex rel. Nixon v. Prudential Health Care Plan, Inc.*, 259 F.3d 949, 954 (8th Cir. 2001) (“Plaintiffs may not pursue multiple federal suits against the same party involving the same controversy at the same time.”). This case therefore will be dismissed, as being wholly duplicative of the first-filed action, Case No. 8:20CV110.

III. MOTION FOR APPOINTMENT OF COUNSEL

Plaintiff has filed a motion for appointment of counsel (Filing 6). The court cannot routinely appoint counsel in civil cases. In *Davis v. Scott*, 94 F.3d 444, 447 (8th Cir. 1996), the Eighth Circuit Court of Appeals explained that “[i]ndigent civil litigants do not have a constitutional or statutory right to appointed counsel.” Trial courts have “broad discretion to decide whether both the plaintiff and the court will benefit from the appointment of counsel, taking into account the factual and legal complexity of the case, the presence or absence of conflicting testimony, and the plaintiff’s ability to investigate the facts and present his claim.” *Id.* Having considered these factors, the request for the appointment of counsel will be denied without prejudice.

IV. CONCLUSION

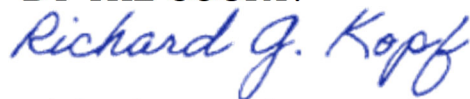
This case will be dismissed without prejudice, as wholly duplicative of Case No. 8:20CV110, and Plaintiff's motion for appointment of counsel will be denied.

IT IS THEREFORE ORDERED:

1. Plaintiff's motion for appointment of counsel (Filing 6) is denied without prejudice.
2. This action is dismissed without prejudice.
3. Judgment shall be entered by separate document.

Dated this 1st day of September, 2020.

BY THE COURT:



Richard G. Kopf
Senior United States District Judge